THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.7162 OF 2005

DATED: 25-7-2007

Between:

Kolaparthy Polisetty

.. Petitioner

and

The Govt. of Andhra Pradesh, rep. by its Secretary, Revenue Department, Secretariat, AP, Hyderabad and others

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.7162 OF 2005

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ORDER:

This writ petition is filed seeking a mandamus declaring the action of the 2nd respondent in issuing notice, dated 15.03.2005, vide Rc.No.3091/2003/D.M., as arbitrary and illegal.

The facts, in brief, are that Sri Ramadhootha Ashram, which is registered under the Societies Registration Act, 1960 is situated at Venugopala Nagar, Chevuru Post, Prakasam District. It is situated in Sy.No.879, in an extent of Ac.7.38 cents out of the total extent of Acs.36.74 cents, which is classified as Cheruvu Poramboku as per the revenue records. It was being run with service motive and with the cooperation and coordination of devotees, without any selfish interest. Free medical camps are being conducted for poor people of the surrounding villages and also for devotees, once in a fortnight. While so, the Committee of the Ashram requested the Revenue Divisional Officer concerned to assign the encroached land, an extent of Acs.7-38 cents, in favour of the Ashram, on payment of market value. The Committee also made a representation to the Chief Commissioner of Land Administration, A.P., Hyderabad, and the same is pending before him. While that being so, the impugned notice was issued by the 2nd respondent stating that an extent of Acs.2-37 cents, out of the land occupied by the Ashram, was found to be Reserve Forest land and, therefore, it was directed to handover the possession of the said extent to the Forest Department, within 15 days from the date of receipt of the notice. Aggrieved by the same, the present writ petition is filed.

It is the case of the petitioner that earlier, regarding a land dispute in respect of Sy.Nos.879 and 883, a joint survey was

conducted by the Assistant Director, District Survey and Land Records, Ongole, along with the team of officials of Revenue and Forest Departments, and basing on the said survey, the Assistant Director of Survey and Land Records, Ongole submitted a report to the Collector and District Magistrate, Prakasam on 27.08.2002 stating that he had inspected the disputed land along with the Mandal Surveyor, Gudlur, T.F.D.I.O.S., Ongole and D.I.O.S., Kandukur, and fixed the boundaries of Sy.Nos.879 and 883 as per field measurement book, and found that there was a difference in forest survey number and he had also verified the district boundary as per the village field measurement book of Rudrakota, Kavali Mandal of Nellore District, and fixed the survey numbers correctly. Then all the survey numbers are tallied with field measurement book and, after that, he had fixed the boundary between forest land and tank. The buildings of Ashram have been situated in tank Poramboke i.e. in Sy.No.879 and total extent occupied by the Ashram is Acs.7-38 cents.

The learned counsel for the petitioner stated that on the basis of the above mentioned report, it must be deemed that there is no forest land comprising in the occupied land of Acs.7-38 cents in Sy.No.879 and, in spite of several representations being made, the report submitted by the Assistant Director of Survey and Land Records is not being taken into consideration by the respondents.

The 2nd respondent - Divisional Forest Officer filed a detailed counter affidavit denying the allegations made by the petitioner. It is asserted that a statement was recorded from Sri M. Ramadhootha to the effect that he would vacate the land, if it was found to be reserve forest land, and during the land survey, it was noticed that an extent of Acs.2.37 cents in Sy.No.883 falls in Reserve

Forest area.

The learned counsel for the petitioner further stated that even according to the counter filed by the 2nd respondent, an extent of Acs.2-37 cents in Sy.No.883 falls in Reserve Forest area. May be it falls in Reserve Forest area, but it is nowhere stated in the counter that out of the occupied land of Acs.7-38 cents in Sy.No.879, there is any Reserve Forest land.

Admittedly, no notice of any kind was issued for deciding as to the correctness or otherwise of the location of Acs.2-37 cents in Sy.No.883 and as to whether the same is Reserve Forest Land or not.

Under these circumstances, without expressing any opinion on merits, the respondents are directed to get a joint survey conducted afresh in the presence of the petitioner and the revenue officials and find out whether an extent of Acs.2-37 cents, out of the land purported to have been occupied by the Ashram, falls into Sy.No.883 or 879 and whether it is Reserve Forest land or not. This exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. Till such time, no coercive steps shall be taken against the Ashram.

With the above directions, the writ petition is disposed of. There shall be no order as to costs.

C.V. RAMULU, J

25th July, 2007.
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